Remarks

Claims 44-64 are currently pending in the Application.

Summary of claim amendments

This response amends Claim 52 by adding a period at the end of the claim. No new matter has been added.

This response amends Claim 54 by deleting a duplicate term "providing" and replacing the phrase "stored model configuration" with "stored module configuration." No new matter has been added.

This response amends Claim 57 by replacing the phrase "the actual module configuration" with the phrase "an actual module configuration" to provide sufficient antecedent basis. No new matter has been added.

Claim objection

The Examiner objects to the phrase "the stored model configuration providing providing an identification ..." as recited in Claim 54 for reciting the term "providing" twice. Applicant submits the duplicate term "providing" has been deleted from Claim 54 and request that the objection be withdrawn.

35 U.S.C. §112, second paragraph, rejection

Claim 57 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. According to the Examiner Claim 57 does not provide sufficient antecedent basis for the phrase "the actual module configuration." Applicant submits that Claim 57 has been amended and request that the rejection be withdrawn.

35 U.S.C. §103(a) rejection in view of Drews and Selitrennikoff

Claims 44-47, 50, 52-53 and 58 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Drews (U.S. Patent No. 6,539,480) and further in view of Selitrennikoff (U.S. Patent No. 6,209,089).

Applicant submits that the Examiner has **not** established a *prima facie* case of obviousness for the claims rejected under 35 U.S.C. §103(a). Applicant notes:

> "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure" (emphases added) *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Applicant submits that a *prima facie* case of obviousness has not been established because the Examiner has failed to show that Drews and Selitrennikoff teach each and every element as claimed in the present application. In particular:

Claim 44

A. Applicant submits that the Examiner has not shown that Drews and Selitrennikoff disclose, suggest or teach, *inter alia*, the following features recited by Claim 44 of the present application:

> "the trusted device performing a cryptographic identification process for modules with a cryptographic identity to identify them and **thereby determine** an actual module configuration" (emphasis added)

The Examiner asserts that the feature of "the trusted device performing a cryptographic identification process for modules with a cryptographic identity to identify them" as recited in Claim 44 is disclosed by Drews' elements "114-116." See page 3, section 8, lines 6-8 of the Official Action. The Examiner also asserts that the feature of "determine

an actual module configuration" as recited in Claim 44 is disclosed by Drews' Figure 4. See page 3, section 8, lines 8-9 of the Official Action. Applicant respectfully traverses the Examiner's assertion.

According to Drews, Figure 4 illustrates an embodiment of element "113" shown in Drews' Figure 3. See Figure 4 and column 5, line 37 of Drews. According to Drews Figure 3 reproduced below, the element "113" precedes Drews' elements "114-116."

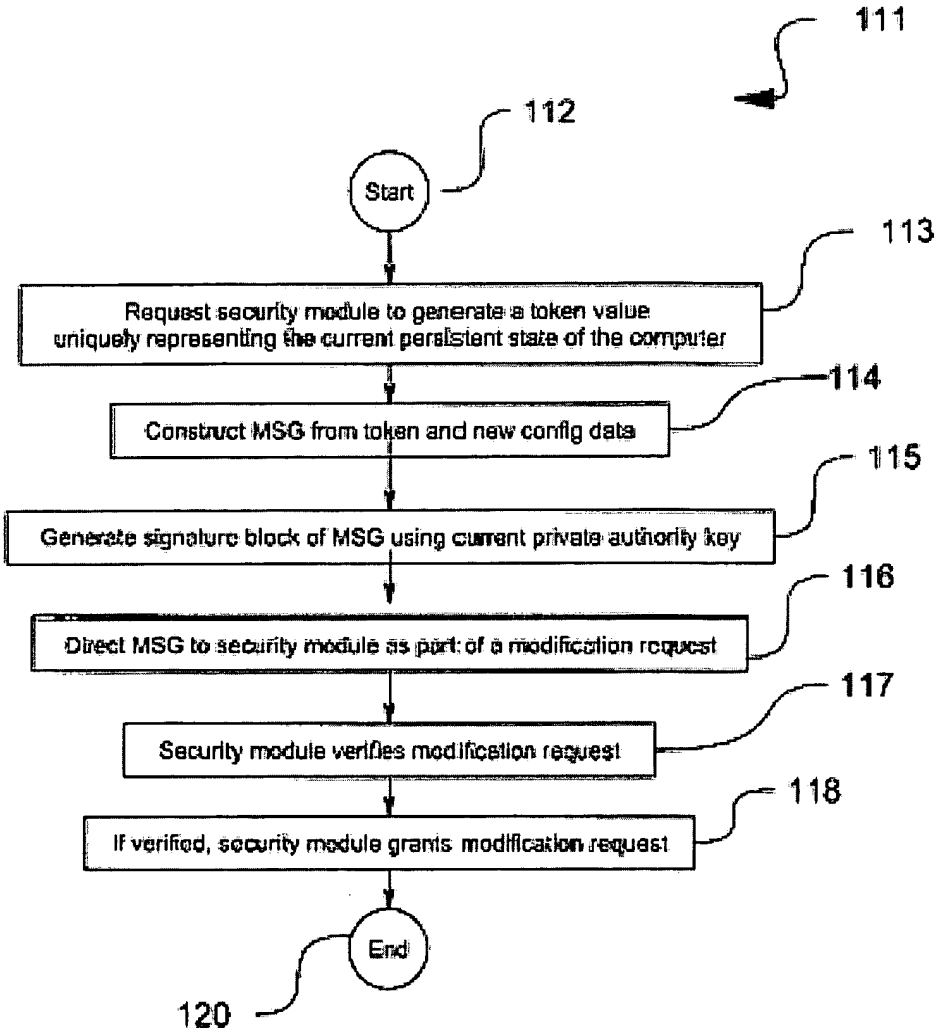

Figure 3

Because Drews' element "113" precedes Drews' elements "114-116," Drews' elements "114-116" can not determine the element "113." How can Drews teach, disclose or suggest "the trusted device performing a cryptographic identification process for modules with a cryptographic identity to identify them and **thereby determine** an actual module configuration" (emphasis added) as recited in Claim 44 when Drews' elements "114-116" are executed after the element "113"?

Applicant submits that the Examiner has not shown that Drews and Selitrennikoff disclose, suggest or teach "the trusted device performing a cryptographic identification process for modules with a cryptographic identity to identify them and **thereby determine** an actual module configuration" (emphasis added) as recited in Claim 44, because Drews' element "113" precedes Drews' elements "114-116" and therefore clearly can not be determined by the elements "114-116." Hence, Claim 44 is patentable over Drews and Selitrennikoff and should be allowed by the Examiner. Claims 45-47 and 50, at least based on their dependency on Claim 44, are also believed to be patentable over Drews and Selitrennikoff.

B. Applicant submits that the Examiner has not shown that Drews and Selitrennikoff disclose, suggest or teach, *inter alia*, the following features recited by Claim 44 of the present application:

> "storing a module configuration of the computer apparatus ... the trusted device comparing the **actual module configuration** against the **stored module configuration**" (emphasis added)

The Examiner asserts that the feature of "storing a module configuration of the computer apparatus" as recited in Claim 44 is disclosed by Drews' trusted authority information "45." See page 3, section 8, lines 5-6 of the Official Action. The Examiner also asserts that the feature of "the trusted device comparing the actual module configuration against the stored module configuration" as recited in Claim 44 is disclosed by Drews' Figure 3 and element "117." See page 3, section 8, lines 9-10 of the Official Action. The Examiner further asserts that the feature of "an actual module configuration" as recited in Claim 44 is disclosed by Drews' Figure 4. See page 3, section 8, lines 8-9 of the Official Action. Applicant respectfully traverses the Examiner's assertions.

According to Drews, Figure 3's element "117" is illustrated in detail in Drews' Figure 5 reproduced below and described in column 6, lines 1-19 of Drews.

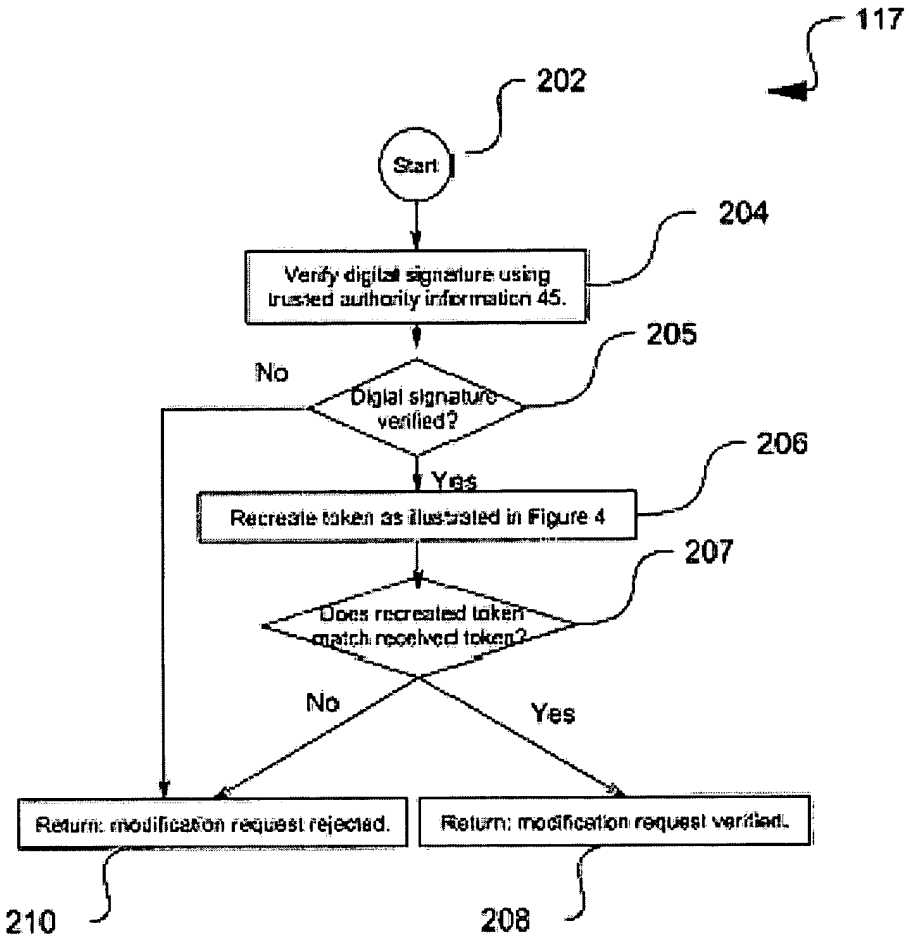

Figure 5

According to Figure 5 above, element "117" performs two comparisons, elements "204 and 207,"before deciding to either reject the modification request, element "210," or verify the modification request, element "208." Applicant submits that neither of the two comparisons performed by the element "117" teach, disclose or suggest "comparing the

actual module configuration against the stored module configuration" as recited in Claim 44 for the following reasons.

First, according to Drews, in element "204" security module "30 verifies a digital signature by using a public key stored within Drews' store "40." See column 6, lines 4-7 of Drews. Does the Examiner allege that verifying a digital signature using a public key discloses "comparing the actual module configuration against the stored module configuration" as recited in Claim 44? If that is the case, that would imply that the digital signature allegedly reads on the "actual module configuration" as recited in Claim 44 and the stored public key allegedly reads on the "stored module configuration" as recited in Claim 44.

How can the digital signature disclose the "actual module configuration" as recited in Claim 44, when the Examiner has already indicated that the "actual module configuration" is disclosed by Drews' Figure 4 shown below?

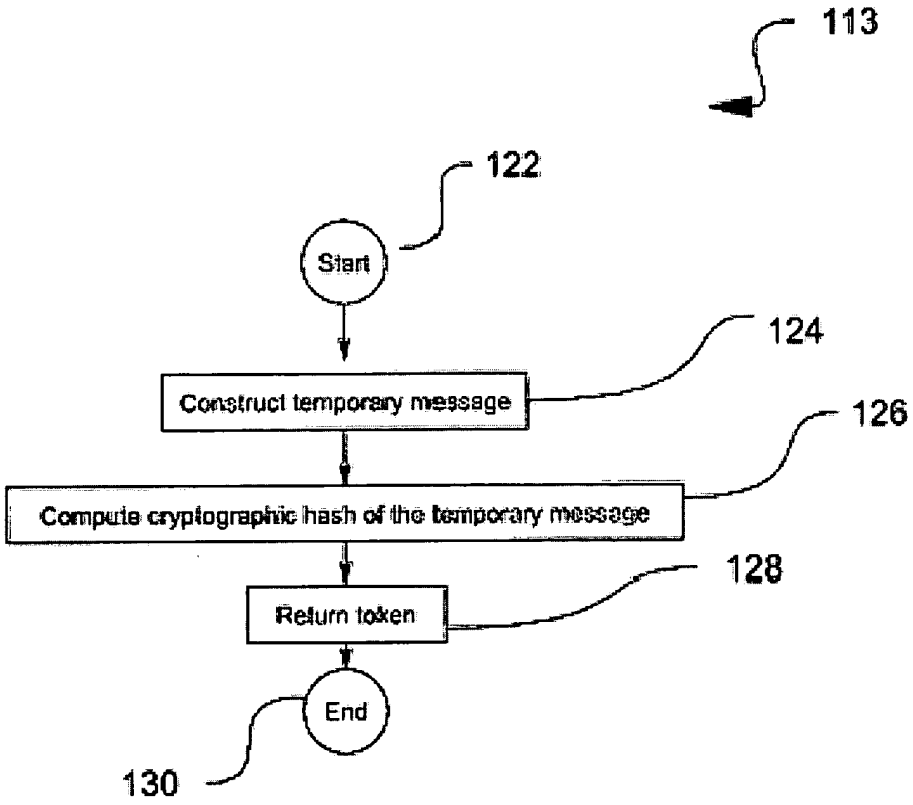

Figure 4

According to Drews, Figure 4 depicts the creation of a token that is further processed by elements "114-116" before being delivered to element "117." See Figures 3-4 above. How can the "actual module configuration" as recited in Claim 44 be disclosed by both the token from Figure 4 and the digital signature disclosed in Figure 5? Applicant respectfully requests that the Examiner be consistent in his interpretation of Drews and

comply with 37 C.F.R. §1.104(c)(2) by designating "as nearly as practicable" where Drews discloses the "actual module configuration" as recited in Claim 44.

Second, according to Drews, in element "207" security module "30" compares a temporary token with a token received in the modification request. See column 6, lines 13-15 of Drews. Does the Examiner allege that comparing a temporary token with a token received in the modification request discloses "comparing the actual module configuration against the stored module configuration" as recited in Claim 44? If that is the case, that would imply that one of the tokens reads on the "actual module configuration" as recited in Claim 44 and the other token reads on the "stored module configuration" as recited in Claim 44.

Applicant respectfully submits that neither the temporary token nor the token received in the modification request reads upon the "stored module configuration" as recited in Claim 44 because neither one is described anywhere in Drews as being stored. Applicant respectfully requests that the Examiner comply with 37 C.F.R. §1.104(c)(2) by designating "as nearly as practicable" where Drews discloses the storing either the temporary token or the token received in the modification request.

Applicant submits that the Examiner has not shown that Drews and Selitrennikoff disclose, suggest or teach "comparing the **actual module configuration** against the **stored module configuration**" (emphasis added) as recited in Claim 44, because the "actual module configuration" as recited in Claim 44 can not be both the token from Figure 4 and the digital signature disclosed in Figure 5 and because neither the temporary token nor the token received in the modification request are stored in the system of Drews.

Hence, Claim 44 is patentable over Drews and Selitrennikoff and should be allowed by the Examiner. Claims 45-47 and 50, at least based on their dependency on Claim 44, are also believed to be patentable over Drews and Selitrennikoff.

C. Applicant submits that the Examiner has not shown that Drews and Selitrennikoff disclose, suggest or teach, *inter alia*, the following features recited by Claim 44 of the present application:

> "the trusted device **inhibiting function of the computer apparatus** while the actual module configuration does not satisfactorily match the stored module configuration" (emphasis added)

The Examiner asserts that the feature of "the trusted device inhibiting function of the computer apparatus while the actual module configuration does not satisfactorily match the stored module configuration" as recited in Claim 44 is disclosed by Drews' elements "210." See page 3, section 8, lines 10-12 of the Official Action. Applicant respectfully traverses the Examiner's assertion.

According to Drews, a security module "30" is able to validate a modification request to configure computer "10." See column 6, lines 1-3, element 117 and Figure 5 of Drews. During the validation process, as shown in Drews' Figure 5 above, the security module "30" rejects the modification request by going to element "210" when either the digital signature is not valid, element 205, or when the created token does not match the received token, element 207.

Because the security module "30" only rejects the modification request in element "210," Drews does not teach, disclose or suggest that the security module "30" is able to inhibit function of the computer "10." Applicant respectfully requests that the Examiner comply with 37 C.F.R. §1.104(c)(2) and "designate as nearly as practicable" where Drews' element "210" teaches about "**inhibiting** function of the computer apparatus" (emphasis added) as recited in Claim 1.

Applicant submits that the Examiner has not shown that Drews and Selitrennikoff disclose, suggest or teach "**inhibiting** function of the computer apparatus" (emphasis added) as recited in Claim 44, because Drews' security module "30" only rejects the modification request in element "210." Hence, Claim 44 is patentable over Drews and

Selitrennikoff and should be allowed by the Examiner. Claims 45-47 and 50, at least based on their dependency on Claim 44, are also believed to be patentable over Drews and Selitrennikoff.

Claim 52

Applicant submits that, at least for the reasons stated above for Claim 44, Drews and Selitrennikoff do not teach, disclose or suggest "trusted device is adapted to compare a module configuration of the computer apparatus against a stored module configuration by performing a cryptographic identification process for modules with a cryptographic identity **to determine** an actual module configuration" (emphasis added) and "to **compare** the actual module configuration against the stored module configuration" (emphasis added) as recited in Claim 52. Hence, Claim 52 is patentable over Drews and Selitrennikoff and should be allowed by the Examiner. Claim 53, at least based on its dependency on Claim 44, is also believed to be patentable over Drews and Selitrennikoff.

Claim 58

The Examiner rejects dependent Claim 58 in view of Drews and Selitrennikoff. Applicant respectfully note that Claim 58 depends from Claim 54 which has not been rejected in view of Drews and Selitrennikoff. How can a dependent Claim 58 be obvious in view of Drews and Selitrennikoff when Claim 54 seems to be patentable in view of Drews and Selitrennikoff? Applicant submits that Claim 58 is patentable over Drews and Selitrennikoff because it depends from Claim 54 which is patentable over Drews and Selitrennikoff.

35 U.S.C. §103(a) rejection in view of Herzi and Selitrennikoff

Claims 54-56 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Herzi (U.S. Patent No. 6,353,885) and further in view of Selitrennikoff (U.S. Patent No. 6,209,089). Applicant traverses the Examiner's rejection.

Applicant submits that a *prima facie* case of obviousness has not been established because the Examiner has failed to show that Herzi and Selitrennikoff teach each and every element as claimed in the present application. In particular:

Claim 54

Applicant submits that the Examiner has not shown that Herzi and Selitrennikoff disclose, suggest or teach, *inter alia*, the following features recited by Claim 54 of the present application:

> "adapted to provide the stored module configuration to the computer apparatus to allow **comparison between an actual module configuration of the computer apparatus and the stored module configuration**" (emphasis added)

The Examiner asserts that the feature of comparing "between an actual module configuration of the computer apparatus and the stored module configuration" as recited in Claim 54 is disclosed by Herzi's elements "78." See page 5, lines 1-3 of the Official Action. Applicant respectfully traverses the Examiner's assertion.

According to Herzi, element "78" determines whether or not a change has occurred in the BIOS level settings during a current session with the computer user. See column 7, lines 12-14 of Herzi. However, Herzi is silent as to how element "78" is able to determine whether or not a change has occurred in the BIOS level settings during a current session with the computer user. Because Herzi is silent as to how element "78" is able to determine whether or not a change has occurred, Herzi does not teach, disclose or suggest comparing "between an actual module configuration of the computer apparatus and the stored module configuration" as recited in Claim 54.

If the Examiner does not agree with Applicant's interpretation of Herzi, the Examiner is encouraged to comply with 37 C.F.R. §1.104(c)(2) and "designate as nearly as practicable" where Herzi compares "between an actual module configuration of the computer apparatus and the stored module configuration" as recited in Claim 54 to

determine whether or not a change has occurred in the BIOS level settings during a current session with the computer user.

Applicant submits that the Examiner has not shown that Herzi and Selitrennikoff disclose, suggest or teach "comparison between an actual module configuration of the computer apparatus and the stored module configuration" as recited in Claim 54, because Herzi is silent as to how element "78" is able to determine whether or not a change has occurred. Hence, Claim 54 is patentable over Herzi and Selitrennikoff and should be allowed by the Examiner. Claims 55-56, at least based on their dependency on Claim 54, are also believed to be patentable over Herzi and Selitrennikoff.

35 U.S.C. §103(a) rejection in view of Drews, Selitrennikoff and Herzi

Claims 48-49, 57, 59 and 60-63 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Drews, Selitrennikoff and Herzi. Applicant traverses the Examiner's rejection.

Applicant submits that a *prima facie* case of obviousness has not been established because the Examiner has failed to show that Drews, Selitrennikoff and Herzi teach each and every element as claimed in the present application. In particular:

Claims 48-49

Applicant submits that Claims 48-49, at least based on their dependency on Claim 44, are believed to be patentable over Drews, Selitrennikoff and Herzi, because there is no prima facie 35 USC 103(a) case based on Drews and Selitrennikoff, as shown above, and because the Examiner has not shown where Herzi discloses, teaches or suggests the features not found in Drews and Selitrennikoff.

Claim 57

Applicant submits that, at least for the reasons stated above for Claims 44 and 54, Drews, Selitrennikoff and Herzi do not teach, disclose or suggest "checking an actual module configuration **against** the stored module configuration" (emphasis added) and "**inhibiting** function of the computer apparatus if the actual module configuration does

not satisfactorily match the stored module configuration" (emphasis added) as recited in Claim 57. Hence, Claim 57 is patentable over Drews, Selitrennikoff and Herzi and should be allowed by the Examiner. Claims 59 and 60-63, at least based on their dependency on Claim 57, are also believed to be patentable over Drews, Selitrennikoff and Herzi.

35 U.S.C. §103(a) rejection in view of Drews, Selitrennikoff, Herzi and Muftic

Claims 51 and 64 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Drews, Selitrennikoff, Herzi and further in view of Muftic (U.S. Patent no. 5,943,423). Applicant traverses the Examiner's rejection.

Claims 51 and 64

Applicant submits that Claims 51 and 64, at least based on their dependency on Claims 44 and 57, respectively, are believed to be patentable over Drews, Selitrennikoff, Herzi and Muftic, because there is no prima facie 35 USC 103(a) case based on Drews and Selitrennikoff, as shown above, and because the Examiner has not shown where Herzi and Muftic disclose, teach or suggest the features not found in Drews and Selitrennikoff.

Conclusion

In view of the above, reconsideration and allowance of all the claims are respectfully solicited.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment Commissioner for Patents POB 1450, Alexandria, VA 22313-1450 on

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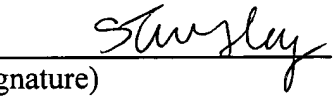
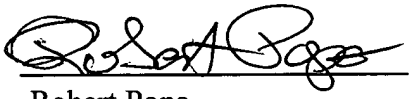
Shannon Tinsley
(Name of Person Signing)


(Signature)

May 3, 2006
(Date)

Respectfully submitted,



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